

FILED

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
(Baltimore Division)

FEB 19 2001

CLERK'S OFFICE
U. S. BANKRUPTCY COURT
DISTRICT OF MARYLAND
BALTIMORE

In re:

FRANK'S NURSERY & CRAFTS, INC., et
al.,

Debtors.

Case Nos. 01- *52415-IS through 01-52416-IS*
(Chapter 11)
(Jointly Administered)

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DEBTORS' MOTION FOR AN ADMINISTRATIVE ORDER REGARDING *PRO HAC VICE*
ADMISSIONS AND MODIFYING LOCAL RULE OF BANKRUPTCY PROCEDURE 9010-3

Frank's Nursery & Crafts, Inc. ("Frank's") and FNC Holdings, Inc. ("FNC"), the above-captioned debtors and debtors in possession herein (collectively, the "Debtors"), by counsel, file this Motion for an Administrative Order Regarding *Pro Hac Vice* Admissions and Modifying Local Rule of Bankruptcy Procedure 9010-3 (the "Motion"), and in support thereof state:

Jurisdiction

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue lies properly in this Court, pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157.

2. The relief sought with this Motion is based upon Local Rule of Bankruptcy Procedure of the United States Bankruptcy Court for the District of Maryland 9010-3 ("Local Rule 9010-3").

The Chapter 11 Cases

3. On the date hereof (the "Petition Date"), each of the Debtors filed a voluntary petition with this Court for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). The Debtors continue in the possession of their respective properties and

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the management of their respective businesses as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

4. By motion submitted to the Court concurrently herewith, the Debtors seek entry of an order of this Court authorizing the procedural consolidation and joint administration of these cases.

The Debtors and Their Business Operations

5. Frank's, founded in 1949, operates the largest United States chain (as measured by sales) of specialty retail stores devoted to the sales of lawn and garden products. Lawn and garden products include green and flowering plants for outdoor and indoor usage, live landscape products such as trees and shrubs, fertilizers, seeds, bulbs, gardening tools and accessories, planters, watering equipment, garden statuary and furniture, wild bird food and feeders, mulches and specialty soils. Frank's also is a leading retailer of Christmas Trim-A-Tree merchandise, artificial flowers and arrangements, garden and floral crafts, and home decorative products. FNC (formerly known as General Host Corporation) is the sole shareholder of Frank's.

6. As of February 9, 2001, Frank's operated 217 retail stores in 15 states, primarily in the Mid-Atlantic, Midwest and Northeast. At that time, an additional 44 stores were being closed as part of a previously announced plan to sell under-performing store locations. In its fiscal year ending January 28, 2001, Frank's had sales of approximately \$435 million. Currently, the Debtors employ approximately 1,900 full-time and 5,000 part-time employees. As of November 5, 2000, the Debtors had total assets of approximately \$471.9 million and total debt of approximately \$338 million.

7. The Debtors' sales are seasonal. The lawn and garden revenues are concentrated principally in the Spring and, to a lesser extent, in the Fall. The Trim-A-Tree sales occur between Thanksgiving and Christmas.

8. During most of the first half of 2000, weather patterns negatively impacted lawn and garden product sales across the Debtors' principal markets. During the third quarter of 2000, the Debtors decided to close 44 under-performing stores, liquidate their inventories, and sell the closed stores owned by the Debtors. Later in 2000 it became apparent that the Debtors' Trim-A-Tree holiday season sales were below expectations, which was consistent with the general softness in sales at retailers during this period.

9. In 2001, notwithstanding excess borrowing availability under their existing bank credit facilities, the Debtors were unable to draw down sufficient funding to meet the Debtors' working capital needs because the Prepetition Lenders asserted that various conditions to borrowing had not been met. (The Prepetition Lenders, however, did provide limited funding subject to various conditions.) Also, in the relatively short period since access to their credit facilities had been curtailed, the Debtors were unable to secure additional funding to meet those working capital needs. Ultimately, the Debtors determined the most appropriate method to obtain such financing and achieve their restructuring objectives was through chapter 11 filings.

The Admission of Attorneys *Pro Hac Vice*

10. The Debtors submit that, in a case of this magnitude, it is both necessary and proper to establish a specialized procedure for the admission of attorneys *pro hac vice*.

11. Given the large number of creditors and other parties of interest in these cases and in consideration of the Debtors' operations in fifteen (15) states, it is expected that there will be a

large number of attorneys who are not members of the Bar of the District Court for Maryland that will need to file pleadings and/or appear before this Court.

12. Especially during the first months of these cases, it is anticipated that following the procedures outlined in Local Rule 9010-3 will occupy significant amounts of the Court's valuable time and generate excessive numbers of pleadings solely related to admission *pro hac vice*.

13. Additionally, in a case of this magnitude, it may be impossible for all parties in interest to promptly obtain local counsel as required by Local Rule 9010-3(b)(1) and the nature of certain of the claims in this case may make such a requirement impractical or uneconomical for a large group of the parties in interest.

14. Accordingly, the Debtors, in consultation with the Office of the United States Trustee, have developed a proposed procedure for the admission of attorneys *pro hac vice* which the Debtors and the Office of the United States Trustee believe would facilitate the orderly administration of these proceedings.

15. The procedures would modify Local Bankruptcy Rule 9010-3, for the purposes of these cases only, as follows:

a. An attorney who is not a member of the Bar of the United States District Court for the District of Maryland need not be admitted *pro hac vice* in order to file a pleading or to participate telephonically in a hearing before this Court during the period of time between the Petition Date and March 31, 2001; and

b. An attorney who is not a member of the Bar of the United States District Court for the District of Maryland must be admitted *pro hac vice* in order to appear in person before this Court; and

c. A party represented by an attorney who has been admitted *pro hac vice* MUST also be represented by local counsel who is a member of the Bar of the United States District Court for the District of Maryland, pursuant to Local Rule of Bankruptcy Procedure 9010-3; said local counsel must sign all pleadings filed by said *pro hac vice* counsel but said local counsel need not accompany *pro hac vice* counsel at hearings or other Court appearances;

16. The Debtors believe that the requested procedures would establish an efficient, economical and fair procedure for addressing the admission of attorneys *pro hac vice* in these cases. They submit that failing to enact these or similar procedures would result in the wasting of scarce Court resources and cause harm to the parties in interest in these cases.

Conclusion

WHEREFORE, it is respectfully requested that the Court (i) enter an order substantially similar to the attached proposed order establishing procedures for the *pro hac vice* admission of attorneys in these cases, and (ii) grant such other and further relief as is just and proper.

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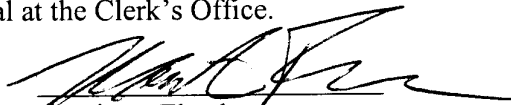
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Co-Counsel for the Debtors,

Frank's Nursery & Crafts, Inc., et al.,

CERTIFICATE OF SERVICE

I certify that on this 19th day of February, 2001, a copy of the foregoing pleading was sent by the means indicated and to the parties identified on the Omnibus Certificate of Service filed concurrently with this pleading. In order to expedite the copying and transmittal of pleadings to parties in interest, a copy of the Omnibus Certificate of Service was not transmitted with the pleading. Any party desiring a copy of the Omnibus Certificate of Service may contact the undersigned or may review the original at the Clerk's Office.


Martin T. Fletcher